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January 12, 2005

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: April 21, 2004

Case Number: TSO-0095

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as "the individual") for access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." <sup>1</sup>

## **I. Background**

In September 2002, the individual's employer, a Department of Energy (DOE) contractor, requested that his security clearance be reinstated. <sup>2</sup> In response to this request, the local security office conducted an investigation of the individual. As part of this investigation, the individual was interviewed by a personnel security specialist. After this Personnel Security Interview (PSI), the individual was referred to a local psychiatrist (hereinafter referred to as "the DOE psychiatrist") for an agency-sponsored evaluation. Subsequently, the Manager of the local security office reviewed the individual's file and determined that derogatory information existed that cast into doubt the individual's eligibility for a security clearance. The Manager informed the individual of this determination in a letter that set forth in detail the DOE's security concerns and the reasons for those concerns. I will hereinafter refer to this letter as the Notification Letter. The Notification Letter also informed the individual that he was entitled to a hearing before a Hearing Officer in order to resolve the substantial doubt concerning his eligibility for access authorization. The individual requested a hearing on this matter. The Manager forwarded this request to the Office of Hearings and Appeals and I was appointed the Hearing Officer.

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An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to in this Decision as access authorization or a security clearance.

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The individual had previously held a security clearance from 1995 through 1998, which was terminated when he quit his job with another DOE contractor.

## **II. Statement of Derogatory Information**

As indicated above, the Notification Letter included a statement of derogatory information that created a substantial doubt as to the individual's eligibility to hold a clearance. This information pertains to paragraphs (f), (h), (j), (k) and (l) of the criteria for eligibility for access to classified matter or special nuclear material set forth at 10 C.F.R. § 710.8. In general, the Letter describes the individual's severe problems with alcohol and substance dependence, and other security concerns caused or exacerbated by those dependencies. Therefore, for purposes of clarity, I will first set forth the DOE's concerns directly relating to alcohol and drug use under paragraphs (j) and (k).

Paragraph (j) defines as derogatory information indicating that the individual "has been, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." Under this paragraph, the Letter cites a March 2000 arrest, statements made during his PSI, and the DOE psychiatrist's evaluation. The individual was arrested for Driving under the Influence of Alcohol (DUI), Transporting Open Container, Driving Under Suspension, Driving Left of Center, and three other charges. He was administered a Breathalyzer test, which indicated an alcohol content of .14.

During his PSI, the individual stated that he began drinking at the age of 14. From 1990 to 1993, he drank to intoxication three to four times a week, consuming at least five drinks in each instance. From March 1993 to early 1997, he refrained from drinking, but later in 1997 he began drinking again. From 1998 until March 2002, he said, he was consuming six to twelve drinks on an almost daily basis. During this time, he missed work because of drinking, reported to work under the influence of alcohol, and drank at lunch on work days. He estimated that he has experienced five to ten blackouts over the years, and admitted that his wife and his mother told him that he has a drinking problem.

The Letter states that the individual was evaluated by the DOE psychiatrist in May 2003. He concluded that the individual suffers from alcohol dependence with inadequate evidence of reformation or rehabilitation, and that this condition has caused very serious defects in his judgement and reliability.

Paragraph (k) refers to information indicating that the individual has "sold, transferred, possessed, used, or experimented with a . . . substance listed in the Schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as marijuana, cocaine, amphetamines, . . . etc.)" except as prescribed by a physician or otherwise authorized by federal law. During his PSI, the individual admitted to having used marijuana approximately three times a year between 1984 and 1987, and a few times a week in 1988. From 1989 to March 2002 he continued to buy and use marijuana approximately 10 times per year.

The Letter states that in the PSI, the individual also said that from 1997 to 1998, he would purchase and inhale methamphetamine once a week. In 1999, his usage of this drug increased to approximately one-third of a gram every four days, and then to one gram a week in 2000. In the early part of 2001, the individual smoked or inhaled almost a gram of methamphetamine weekly, sometimes while at work. PSI at 155.<sup>3</sup> In April 2001, he experienced frightening hallucinations caused by his drug usage and sleep deprivation. Nevertheless, he continued to use methamphetamine until March 2002.

The Letter also cites the individual's statements during the PSI about his cocaine usage. Between 1990 and 1997, he used the drug approximately three times. In 1998, his usage increased to the point where he and his wife were consuming one-sixteenth to a quarter of an ounce of cocaine every one to two weeks. He would sometimes bring the drug into a secured facility and use it while at work. While unemployed during the latter part of 1998 and the first part of 1999, he smoked or inhaled cocaine approximately three times a week. During the first half of 2001, he inhaled about one gram of the drug per week on Fridays, usually while drinking. During his evaluation by the DOE psychiatrist, the individual also admitted having abused the prescription drugs Tranzone, Valium, Klonopin, Xanax, Vicodin and Percocet.

The Notification Letter also refers to paragraph (h) of the criteria for eligibility for access to classified matter or special nuclear material. Under that paragraph, information is considered derogatory if it indicates that a clearance holder or applicant for access authorization suffers from an "illness or mental condition which, in the opinion of a psychiatrist . . . , causes or may cause, a significant defect in judgment or reliability." 10 C.F.R. § 710.8(h). Pursuant to this paragraph, the Letter cites the DOE psychiatrist's evaluation. As previously stated, he concluded that the individual suffers from alcohol dependence with inadequate evidence of reformation or rehabilitation. The DOE psychiatrist also found that the individual suffers from substance dependence, cocaine and methamphetamine, with inadequate evidence of reformation or rehabilitation, and concluded "that these illnesses have caused significant, grave and serious defects in his judgment or reliability." DOE psychiatrist's report at 27-31.

Paragraph (f) defines as derogatory information indicating that the individual "has deliberately misrepresented, falsified, or omitted significant information from a Personnel Security Questionnaire [or] a Questionnaire for Sensitive (or National Security) Positions . . . ." With regard to this paragraph, the Letter states that on the Questionnaire for Sensitive Positions (QSP) that the individual completed and signed in October 1994, he indicated that he had not used any

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<sup>3</sup>The Notification Letter erroneously states that the individual admitted to having shared a quarter to a third of an ounce of methamphetamine a week with two other people during this period.

illegal drug during the previous five years. However, during his PSI, he admitted to using marijuana and cocaine during this period and said that he deliberately provided false information on the QSP because he thought that if he had told the truth, he wouldn't get a clearance. PSI at 184.

Finally, the Notification Letter cites paragraph (l). Pursuant to that paragraph, information is derogatory if it indicates that the individual "has engaged in any unusual conduct or is subject to any circumstances which tend to show that [he] is not honest, reliable, or trustworthy; or which furnishes reason to believe that [he] may be subject to pressure, coercion, exploitation or duress which may cause [him] to act contrary to the best interests of the national security." 10 C.F.R. § 710.8(l).

Under this paragraph, the Letter refers to the individual's statements during the PSI indicating:

1. That in July 1997 and February 1998, he traveled to Canada for the sole purpose of purchasing marijuana seeds and in the spring of 1998 he grew marijuana;
2. That in June 2001, he traded home grown marijuana for methamphetamine approximately five times and also purchased methamphetamine;
3. That from June 2001 to August 2002, he sold almost two ounces of marijuana to his friends for a total of \$700;
4. That in October 1998 he was cited by the local police for Possession of Marijuana and that he appeared in court only after a Failure to Appear Notice had been issued;
5. That in January 1999, he stole \$3,000 in gold coins and weapons valued at \$3,000 from his parents and used the proceeds from these thefts to purchase crack cocaine. While he was arrested on these charges, his parents elected not to prosecute;
6. That in September 1998, he stopped paying all of his bills in order to fund his illegal drug use. His truck was repossessed and he lived off the proceeds of selling his personal possessions, including two cars;
7. That as a result of his March 2000 DUI, a bench warrant was issued against him for non-payment of court costs totaling \$1,654;
8. And that his financial irresponsibility resulted in repossession of his house and judgements, collections and charge-offs against him totaling approximately \$24,000. In

addition, he filed for an extension for filing his 1997 federal taxes, but did not file the actual return.

Also, documents obtained by the local security office during the course of its investigation of the individual indicated that he has undergone alcohol and drug treatment in February 1994, January 1999 and September 2001, and that he informed the DOE psychiatrist that from 1998 through 1999, he spent over \$50,000 on cocaine.

### **III. REGULATORY STANDARDS**

The criteria for determining eligibility for security clearances set forth at 10 C.F.R. Part 710 dictate that in these proceedings, a Hearing Officer must undertake a careful review of all of the relevant facts and circumstances, and make a “common-sense judgment . . . after consideration of all relevant information.” 10 C.F.R. § 710.7(a). I must therefore consider all information, favorable or unfavorable, that has a bearing on the question of whether granting the individual a security clearance would compromise national security concerns. Specifically, the regulations compel me to consider the nature, extent, and seriousness of the individual’s conduct; the circumstances surrounding his conduct; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the likelihood of continuation or recurrence of the conduct; and any other relevant and material factors. 10 C.F.R. § 710.7(c).

A DOE administrative proceeding under 10 C.F.R. Part 710 is “for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization.” 10 C.F.R. § 710.21(b)(6). Once the DOE has made a showing of derogatory information raising security concerns, the burden is on the individual to produce evidence sufficient to convince the DOE that restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). *See Personnel Security Hearing*, Case No. VSO-0013, 24 DOE ¶ 82,752 at 85,511 (1995) (*affirmed* by OSA, 1996), and cases cited therein. For the reasons that follow, I conclude that the individual has made this showing, and that he should therefore be granted a clearance.

### **IV. THE HEARING**

At the hearing, the individual did not dispute the allegations set forth in the Notification Letter. Instead, through his own testimony and that of his estranged wife, a friend, his Alcoholics

Anonymous (AA) sponsor, his supervisor, and a co-worker, he attempted to demonstrate rehabilitation from alcohol and substance dependence. A security analyst and the DOE psychiatrist testified for the DOE.

His estranged wife testified that when she met the individual in 1994, "his alcohol use was fairly high," but that shortly thereafter, he stopped drinking and refrained from alcohol and drug use for approximately five years. Hearing Transcript (Tr.) at 21, 30. After that time, she added, his level of alcohol use progressed from mild to moderate to severe. As his drinking increased, the individual became more emotionally volatile, and his wife and children left him in April 2001. Tr. at 21, 22. Subsequently, the individual moved to another state and returned in the first part of 2002. During the period of time from his return until the present, she stated, she has seen the individual an average of four or five times a week, talked to him on the telephone almost daily, and has not seen the individual use alcohol or seen any signs of such use since January 2002. Tr. at 24.

She then talked about the individual's involvement with Alcoholics Anonymous. She said that he began attending in April 2002, initially went to meetings every day, and currently attends four or five meetings per week. Tr. at 25. The individual "socializes a lot with the AA folks," and "if he knows alcohol is going to be involved [in a social event] and he doesn't feel comfortable with it, he won't go." Tr. at 26. She further testified that, in sharp contrast to his behavior before he stopped drinking, he is now a "wonderful" father. Tr. at 27. "He's attentive, he listens, he is loving, affectionate with them, patient, very patient." *Id.*

The estranged wife also testified about the individual's usage of illegal drugs. She said that this usage was "very severe," and that it included cocaine, methamphetamine, and to a lesser extent, marijuana. *Id.* She further indicated that she used drugs along with the individual, and that he ended his drug use when he went into AA in April 2002. Tr. at 28. Since then, she has not seen any indication that the individual is using illegal drugs. *Id.* She concluded that there has been a "dramatic change" in the individual "since he stopped drinking and using drugs." Tr. at 30. "I trust him with the children, which there was a time when I would not have left him alone with them. You know he's honest. . . . And you know, we've even talked about getting back together at some point. I would feel comfortable bringing our family back together if that were, you know, meant to be." Tr. at 31.

The individual's friend then testified. He stated that he met the individual through their joint participation in AA, that they have known each other approximately two years, and that the individual has completely refrained from alcohol and illegal drug use during that time. Tr. at 32-33. He then described the extent of their contact over the course of an average week.

Monday night we'll usually go out to eat, and probably go to an [AA] meeting at seven o'clock, seven to eight. Tuesday, we don't go to a meeting together. He goes to a different one than me. Wednesday, we go to church. Thursday, we have our home group. That's where I met him, where he's the secretary, I'm the treasurer, that's AA. Friday, we usually go out to eat and we go to a meeting, candlelight meeting at eight o'clock. And then we go over to my sister's church, and then maybe go out to eat or have coffee or something. Then Saturday he's with his kids, and then Sunday we go to church.

*Id.* According to the friend, the individual is doing what he needs to do to stay sober, *i.e.*, "Going to meetings, working with your sponsor, working the steps, working with others, and [having] a spiritual experience . . . with either God or . . . whatever you believe in." Tr. at 33.

He further testified about the individual's honesty and reliability. Unlike a lot of other people at the AA meetings, the friend said, the individual "shar[es] from the heart" and is "honest about what's going on with him on a daily basis." Tr. at 34. In addition, he stated that when the individual says that he is going to do something, he does it. "I haven't seen anything where he's not done what he said he was going to do . . . ." *Id.* The individual's honesty, the friend testified, was one of the things that drew him to the individual. "You know, in AA," he said, "if you're going to stay sober, . . . hang out with the winners, and I feel like [the individual] is a winner." Tr. at 36.

According to the friend, the individual has completed all of the AA's 12 steps, but "once we do them all, we kind of work on them, . . . if a situation comes up, we'll . . . work on it naturally . . . . Right now, [the individual] has been working a lot on the second step, because he's been going to church, and he's been getting closer with God." <sup>4</sup> And then the eleventh step, which is 'sought through prayer and meditation to improve our contact with God,' he's been doing that more. [The individual] started coming to church with me about two months ago, and he's just been getting really close to God, so he's been working on the God steps." Tr. at 36-37. The friend added that as a result of the individual's renewed religious involvement, "I've seen a big change in him. . . . he just seemed so appreciative of life and . . . happy and content." Tr. at 37-38.

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The second step of AA's 12 step program requires the alcoholic to "Come to believe that a power greater than ourselves could restore us to sanity." See the "Guide to AA" at [www.alcoholics-anonymous.org](http://www.alcoholics-anonymous.org).

Finally, the friend testified about the strength of the individual's commitment to remaining sober. "I can't really say what the chances are [of the individual suffering a relapse]. What I can say, though, if a person keeps continuing to work the steps, go to meetings and everything that [the individual] is doing, they have a really good chance of not doing it. . . . And as long as he keeps doing that, and has honesty in meetings, I really believe that he'll stay sober the rest of his life." Tr. at 38-39. When asked whether he believed that the individual would continue in AA if his clearance was to be restored, he replied in the affirmative, stating that the individual "is not going to AA to get his clearance. He's going to AA because he's an alcoholic, and that's not going to go away. And so [whether] he gets his clearance or not, he'll continue to go to AA." Tr. at 39.

The individual's AA sponsor then testified. He stated that he met the individual in March 2002 and that he would estimate, conservatively, that the individual attended 300 meetings in each of his two years of AA membership. Tr. at 41-42. He and the individual have also had "numerous" one-on-one meetings and numerous telephone conversations, where they have discussed the 12 steps and how to apply them to life, and they continue to have these meetings and conversations. Tr. at 42-43. The sponsor testified that one way to stay sober

is to stay in contact with other people who are in recovery. And I encourage anybody I'm working with to stay in touch as much as possible, you know. And [the individual has] taken me up on that, and I think it's helped . . . , because [the individual doesn't] seem afraid to call. Whatever is going on, if [the individual has] got a decision to make or something [he's] anxious about, [he does] stay in touch, and [he calls] me, and if I'm not available, [the individual talks] to other people. And because I've been in the program as long as I have . . . , I know a lot of people in the program, so I know whether [the individual] is showing up or doing what he's supposed to be doing from the people I know.

Tr. at 43. He went on to state that he has not seen any indication that the individual has consumed alcohol or used illegal drugs in the two years that they have known each other, and that, in fact, he has seen a lot of personal growth in the individual during that period. Tr. at 44, 52. Consequently, he believes that the individual has "a really good chance of staying sober." Tr. at 49.

The security analyst's testimony was then taken. She primarily addressed the security concerns underlying each of the paragraphs cited in the Notification Letter, and how the individual could mitigate those concerns. With regard to paragraph (f), she indicated that the DOE's personnel security program is based largely on trust, and that providing false or misleading information on a QSP, as the individual did, is a breach of that trust. Tr. at 58. Restoring that trust is "iffy," she



said, but the fact that the falsification occurred 10 years ago is a mitigating factor, as is the fact that the individual was open and “completely honest” during the PSI. Tr. at 60. She also testified that the individual’s dishonest behavior could have been associated with his use of alcohol. Tr. at 62.

Paragraphs (h), (j) and (k), she continued, relate to illnesses or mental conditions that would cause a significant defect in the individual’s judgement or reliability. Tr. at 59. Such a defect could lead the individual to act in a manner that is inconsistent with the best interests of national security. As to what kind of information would serve as mitigation of this concern, the analyst said that the individual’s two years of sobriety “goes a long way.” Tr. at 60.

She went on to state that the individual’s behavior that was cited in the Notification Letter under paragraph (l) was clearly connected to his drug addiction.

You know, it’s the fact in his involvement with illegal drugs, he both grew and sold marijuana as a result of the addiction. He stole from his parents and used that money to fund drugs, or to trade off for drugs, so, you know, that’s the behavior issue. He was cited for possession of marijuana, less than an ounce, in ‘98. He stopped paying his bills and was spending all his money on drugs. He ultimately sold his household goods, again to continue funding his drug use. . . .and . . . that also caused financial issues . . . because he stopped paying his bills, which led to judgements and collection accounts. And it’s all just tied together to the addiction.

Tr. at 59. Accordingly, information indicating rehabilitation from substance dependence, she indicated, would also serve as mitigation of the DOE’s concerns under paragraph (l). Tr. at 61, 63. She also testified that, since the PSI, the individual has consistently kept her abreast of his ongoing efforts to resolve the financial issues that arose as a result of his alcohol and drug dependence. Tr. at 61. As a result of those efforts, she said, the individual has repaid all of his outstanding debts, except for a credit union account, which the individual continues to make payments on. Tr. at 63. She concluded that the individual has done “everything he can possibly can to completely turn his life around. And from a personnel security standpoint, as the specialist on this case, I’m very impressed with the progress that he’s done.” Tr. at 61. She later added that she has “interviewed thousands of people over the last 13 years, and I can honestly say that you’re the second, or maybe the third in close to a hundred hearings that I personally have been involved with, that I truly believe that you are sincere in your recovery.” Tr. at 75.

Next was the testimony of the DOE psychiatrist. He stated that as part of his evaluation of the individual, he reviewed his personnel security file and then interviewed the individual. During

the interview, the individual was “very honest and straightforward” with the DOE psychiatrist. Tr. at 67. In making his diagnosis, the DOE psychiatrist relied on the Diagnostic and Statistical Manual of the American Psychiatric Association, Fourth Edition, Text Revision (hereinafter referred to as the “DSM-IV-TR”). Specifically, the DOE psychiatrist made a determination regarding the applicability of the DSM-IV-TR’s seven criteria for substance dependence to the individual.<sup>5</sup> That determination was that at varying times during the period from 1998 to 2002,

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The DSM-IV-TR defines substance dependence as being a maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following, occurring at any time in the same 12-month period:

1. tolerance, as defined by either of the following:
  - (a) a need for markedly increased amounts of the substance to achieve intoxication or desired effect
  - (b) markedly diminished effect with continued use of the same amount of the substance
2. withdrawal, as manifested by either of the following:
  - (a) the characteristic withdrawal syndrome for the substance . . . .
  - (b) the same (or a closely related) substance is taken to relieve or avoid withdrawal symptoms
3. the substance is often taken in larger amounts or over a longer period than was intended
4. there is a persistent desire or unsuccessful efforts to cut down or control substance use
5. a great deal of time is spent in activities necessary to obtain the substance . . . , use the substance . . . , or recover from its effects
6. important social, occupational, or recreational activities are given up or reduced because of substance use
7. the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance . . . .

(continued...)

the individual met all seven criteria for alcohol, cocaine and methamphetamine dependence, with inadequate evidence of reformation or rehabilitation. In this regard, the DOE psychiatrist noted that, at the time of his evaluation (in 2003), the individual was in sustained full remission from all forms of substance dependence, meaning that he had not met any of the DSM-IV-TR criteria during the preceding 12 months. However, the DOE psychiatrist pointed out that this did not constitute adequate evidence of rehabilitation or reformation for purposes of the DOE personnel security program. Rehabilitation and reformation “are slightly different concepts than simply being in sustained, full remission.” Tr. at 69. In making his determination that the individual was not adequately rehabilitated or reformed, the DOE psychiatrist testified that he considered the severity of the individual’s illnesses and the nature of his employment with the DOE contractor. Tr. at 69. Regarding the severity of the individual’s afflictions, the DOE psychiatrist stated that “I’ve done a lot of these cases, well over a thousand, and in terms of severity of alcohol dependence, [and] especially drug dependence, this certainly is in the top few percent of the really bad cases that I’ve seen in terms of really bad addictive disorder.” *Id.* Accordingly, the DOE psychiatrist concluded in his 2003 report that in order to show adequate evidence of rehabilitation, the individual would have to undergo 200 hours of counseling, with a sponsor, at AA over a two year period, plus an additional year of sobriety. DOE psychiatrist’s evaluation at 29. He also estimated that, based on the rate-of-relapse studies that he had reviewed and on the individual’s history, his chances of relapsing after one year of sobriety and treatment was 25 percent during the next five years. *Id.* at 30. However, if the individual satisfied the DOE psychiatrist’s recommendation for rehabilitation, he opined in the report that the individual’s risk of relapse would drop to approximately five percent. *Id.*

At the hearing, the DOE psychiatrist estimated that, based on the individual’s two years of counseling and sobriety, his five-year risk of relapse was approximately 10 percent. “So,” he added, “I would say if the Hearing Officer considers that adequate [evidence of rehabilitation], then it’s adequate.” Tr. at 71. He called the individual’s rehabilitative efforts

. . . very impressive. I mean, I think [the individual is] doing all the right things, and [he seems] to have made a major transformation in [his] life. And, you know, for me to say that even as of today, I think [the individual’s] risk of relapse is ten percent in five years, that’s pretty good for me to say that. Because, you know, I’ve been around addictive disorders for a number of years, and I know the risk of relapse because I’ve seen so many people relapse that I’ve taken care of. So this is not an illness that one can ever . . . be . . . one hundred percent certain of, and nobody ever has a zero percent chance of relapse.

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<sup>5</sup>(...continued)  
DSM-IV-TR at 197.

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I think [the individual is] doing all the right things. I mean, I'm very, very impressed. I've done a thousand or more cases, and probably . . . close to a hundred hearings, so I've seen a lot of people sitting in [the individual's] chair. And [he's] certainly, in my opinion, doing as well as anybody I've ever seen in terms of demonstrating . . . a real transformation in [his] life, being in a true state of recovery, so I'm as impressed as I can be.

Tr. at 72-73.

Finally, the individual testified. First, he discussed his previous attempts at quitting drugs and alcohol, and why they failed. In 1994, the individual attempted to stop drinking because he felt that, if he did not, he would become an alcoholic. He joined a "three or four month" outpatient program at a local hospital. Tr. at 76, 79. However, he did not follow-up his outpatient treatment with regular attendance at AA meetings as was recommended by his counselors, and he resumed drinking in 1997. Tr. at 77, 79. Moreover, he continued to periodically smoke marijuana during this time. Tr. at 77. The individual then described another attempt to quit during which he saw a psychiatrist between five and ten times before leaving for the west coast, where he attended one AA meeting. Tr. at 79-80.

When asked why these attempts failed, he replied that it was

not because of the counseling efforts or the counselors or anybody but me. . . . I think they weren't effective because I wasn't honest – you know, giving it an honest effort to rehabilitate myself. . . . I see a lot of alcoholics that come in and out, and they try to quit, and we see that quite often, you know. They go see a counselor, they go do this, . . . and they just never quit. And I think once you finally make a decision and you start working the steps and really want to change, you want to stay sober more than you want to use, I think is when . . . it starts becoming effective.

Tr. at 79. He went on to testify that this attempt will be different because

I've completely changed my life and based it around my recovery, instead of basing it around life first and recovery second. Now recovery is first. Actually, I choose to say God is first, and then my recovery, and then whatever else . . . . Wife or no wife, kids or no kids, recovery has to come first, job or no job. . . . It has to come before all those things, otherwise you can't have all of those things.

Tr. at 81.

Then, the individual talked about his increased interest in religion, and how that has affected his recovery. He said that he had always believed in God, but was not an active member of a church. Tr. at 82. He then began attending a local church on a regular basis with his friend, and he testified that he has found it to be “very important to my recovery,” and “a real blessing to me.” *Id.*

## V. ANALYSIS

After reviewing the testimony described above and the record in this matter as a whole, I note that all of the instances of illegality, impropriety and maladaptive behavior cited in the Notification Letter share a common factor: they are all related to, caused by or exacerbated by the individual’s alcohol or drug dependencies. This conclusion is supported by the testimony of the personnel security analyst regarding the instances of illegal behavior and financial irresponsibility cited under paragraph (l), Tr. at 59, 61, and by the testimony of the DOE psychiatrist concerning the falsification of the QSP referred to under paragraph (f). Tr. at 74. Consequently, a showing of reformation or rehabilitation from these dependencies would also, in my view, effectively mitigate these security concerns.<sup>6</sup> For the reasons that follow, I find that the individual has demonstrated rehabilitation from his alcohol and drug dependencies.

As an initial matter, although the individual’s two years-plus of sobriety does not meet the recommendation set forth in the DOE psychiatrist’s report of three years, in another important respect, the individual’s rehabilitative efforts have far surpassed the standards set forth in that document. As previously stated, the DOE psychiatrist recommended, as satisfactory evidence of rehabilitation, 200 hours of counseling, with a sponsor, at AA over a two year period. However, according to the individual’s AA sponsor, the individual has received three times the amount of recommended counseling, or approximately 600 hours, over the preceding two years. I found this testimony to be credible, and I believe that it accurately reflects the depth of the individual’s commitment to sobriety. In finding adequate evidence of rehabilitation despite the fact that the individual has shown two, and not three, years of sobriety, I do not mean to denigrate the importance of carefully examining an alcoholic’s demonstrated period of abstinence in determining whether sufficient rehabilitation for security purposes has occurred. In this case, the severity of the individual’s substance dependencies fully justified the DOE psychiatrist’s finding that one year’s sobriety, though enough to qualify for a finding of full sustained remission, was

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I also conclude that the security concern arising from the individual’s 1994 falsification of his QSP has been mitigated by the passage of time.

insufficient to demonstrate rehabilitation. Nevertheless, because of the intensity of the individual's rehabilitative efforts, I find that a third year of sobriety is not essential. I share the positive appraisal of the individual's prospects for future sobriety expressed by the personnel security analyst and the DOE psychiatrist at the hearing.

The individual's determination to maintain his sobriety was further highlighted by testimony at the hearing concerning a possible reconciliation with his estranged wife. Both the individual and his wife said that they have discussed a full resumption of their marital relationship. Tr. at 31, 84. However, the individual went on to state that

We're actually going through a divorce right now, but we are talking about possible reconciliation. We have done some therapy with a counselor, and . . . I just don't know if it's going to work . . . I don't know, it could go either way, but for right now we are going through a divorce.

*Id.* Later, the individual explained that

She still drinks, and I know she's still smoking marijuana. And to be honest with you, that's the reason *I* filed for divorce this time. This time I filed, and that's the reason, because she won't stop. So when I say that anything could happen, you know, if she made a conscious effort to – an honest effort to attain the same sobriety I have, then I would definitely consider [reconciliation], but for right now, . . . I can't do it.

Tr. at 85 (*italics added*). The DOE psychiatrist then commented that the individual's testimony "just strengthens how impressed I am with your sobriety. And I think, especially saying that you wouldn't get back with your wife and have a family again with your children if she's still drinking or using pot. I mean, that says a lot in terms of your priorities." Tr. at 89. I agree.

I further believe that the intensity of the individual's current rehabilitative efforts distinguishes them from his past, failed attempts at maintaining his sobriety. In 1994, the individual enrolled in and completed an out-patient rehabilitation program at a local hospital. Tr. at 79. Although regular attendance at AA was recommended to reinforce the individual's sobriety, he only "went to one meeting." *Id.* Nevertheless, he was able to refrain from drinking until 1997, although he admitted to using marijuana "four or five times" during this period. Tr. at 77. In February 1999, the individual again attempted to stop using drugs and alcohol. As part of his efforts, he moved to another state in the belief that removing himself from his surroundings would help him to maintain his sobriety. PSI at 73-74. This apparently worked for "a couple of months," and then the individual began associating with people who used alcohol and drugs, and resumed using

himself. PSI at 74. There is nothing in the record to indicate that the individual attended AA or sought any other ongoing counseling during this period. The individual made another attempt to stop in 2001, and, as he previously testified, participated in “five to ten” sessions of professional counseling. Again, however, the individual did not avail himself of AA or any other ongoing treatment, and he subsequently suffered a relapse. Tr. at 79-80.

On this occasion, however, the individual has obtained a sponsor, has regularly attended AA meetings over an extended period of time, and has diligently implemented its twelve step program. This course of action has led to what is apparently the individual’s longest period of abstinence from alcohol and illegal drug usage since he began abusing these substances.

## **VI. CONCLUSION**

Based on the factors discussed above, I find that the individual has shown rehabilitation from his alcohol and drug dependencies and has adequately addressed all of the security concerns set forth in the Notification Letter. In reaching these conclusions, I do not mean to suggest that his struggles with substance dependence are over. Indeed, the individual’s own history of temporary sobriety and subsequent relapse attest to the pernicious and persistent nature of the individual’s illness. However, the individual’s determination to reclaim his life is impressive, and has convinced me that his chances of suffering a relapse are remote. I therefore find that the individual has demonstrated that granting him a clearance would not endanger the common defense and would be clearly consistent with the national interest. Accordingly, the individual should be granted access authorization.

Robert B. Palmer  
Hearing Officer  
Office of Hearings and Appeals

Date: **January 12, 2005**